



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

JHK:DCL:MMO

*610 Federal Plaza
Central Islip, New York 11722*

June 29, 2021

Honorable Joseph F. Bianco
United States Circuit Judge
United States Court of Appeals for the Second Circuit
Long Island Federal Courthouse
Central Islip, New York 11722

Re: United States v. Kenner and Constantine
No. CR-13-607 (S-2) (JFB)

Dear Judge Bianco:

The government respectfully writes in response to the letter filed by Danske Bank on June 14, 2021 ("Danske's June 14th Letter"). *See* Docket Entry ("DE") 1065. As Danske Bank stated in its June 14th Letter, Danske Bank and the government had telephonic conferences on June 9, 2021 and June 14, 2021 to discuss the government's discovery requests. *Id.* Attached hereto as Exhibit A is Danske's discovery chart with a column addressing the government's comments. *See* Danske's June 14th Letter, Exhibit 1, DE 1065-1.

In the event Danske Bank files a letter requesting the Court to reconsider its prior determination that Danske Bank is not entitled to discovery from the government, the government renews its objections to Danske Bank's discovery requests. *See* Government's Letter to Court dated June 2, 2021, DE 1053, at pp. 6-9 (objecting to Danske Bank's request for discovery to which it is not entitled and for which the government is not in possession of responsive documents); Transcript of June 7, 2021 Court Conference at p. 45 ("I wasn't overwhelmed by the Bank's request. I understand there's an equitable estoppel potential claim, but my view is, and you know having gone through the papers the first time around, the Bank's

arguments with respect to equitable estoppel don't relate to what those document requests are."). Further, should the Court determine that Danske Bank is entitled to the discovery it seeks, the government requests the opportunity to seek its own discovery from Danske Bank on the same issues.

Respectfully submitted,

JACQUELYN M. KASULIS
Acting United States Attorney

By: /s/ Madeline O'Connor
Madeline O'Connor
Diane C. Leonardo
Assistant U.S. Attorneys
(631) 715-7870
(631) 715-7854

cc: All counsel of record by ECF